

Message Text

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TO AMEMBASSY BUDAPEST

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E.O. 11652: N/A

TAGS:PDIP, HU, US

SUBJECT:PENDING LEGISLATION ON DIPLOMATIC IMMUNITY

REF; BUDAPEST 1307

1. FOREIGN RELATIONS COMMITTEE HEARINGS ON "DIPLOMATIC RELATIONS ACT" (HR 7819) AND OTHER PENDING BILLS ON IMMUNITY, INITIALLY SCHEDULED FOR FEBRUARY, HAVE BEEN POSTPONED FOR DURATION OF DEBATE ON CANAL TREATIES. WE UNDERSTAND COMMITTEE FAVORS ACTION THIS SESSION ALONG LINES OF HR 7819 BUT EXPECT THAT BILL WILL UNDERGO CHANGES IN SENATE REQUIRING COMPROMISE IN CONFERENCE PROCESS.

2. DEPARTMENT IS SENSITIVE TO CONCERNS VOICED BY GOH AND OTHER GOVERNMENTS OVER REQUIREMENT CONTAINED IN SECTION 5 OF DRAFT BILL (HR 7819) THAT A DIPLOMAT FILE A MOTION OR WRITTEN APPLICATION IN ORDER TO SECURE DISMISSAL OF AN
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ACTION ON IMMUNITY GROUNDS. IN RECOGNITION OF THESE CONCERNS DEPARTMENT HAS GIVEN FURTHER EXAMINATION TO THIS ISSUE AND HAS DECIDED, WITH JUSTICE DEPARTMENT CONCURRENCE, TO PROPOSE TO SENATE FOREIGN RELATIONS COMMITTEE AMENDMENT WHICH WOULD PERMIT A "MOTION OR SUGGESTION" TO BE FILED ON BEHALF OF THE INDIVIDUAL "OR OTHERWISE AS PERMITTED BY LAW OR APPLICABLE RULE OF PROCEDURE." ADOPTION OF THIS PRO-

POSAL SHOULD GREATLY MITIGATE IF NOT OVERCOME GOH OBJECT-
TION TO PROVISION IN HOUSE DRAFT.

3. GOH APPARENTLY MISCONSTRUES PURPOSE AND SCOPE OF
SECTION 7(A) (1) OF HR 7819, WHICH PROVIDES THAT FEDERAL
DISTRICT COURTS SHALL HAVE ORIGINAL JURISDICTION, EXCLUS-
IVE OF THE STATE COURTS, OVER ALL CIVIL ACTIONS AND PRO-
CEEDINGS AGAINST MEMBERS OF A DIPLOMATIC MISSION OR MEM-
BERS OF THEIR FAMILIES. SECTION 7 CONSISTS SIMPLY OF
TECHNICAL AMENDMENTS OF US CODE NEEDED TO PRESCRIBE MOST
SUITABLE JUDICIAL FORUM FOR SUCH ACTIONS AS WILL BE PER-
MITTED AS RESULT OF REPEAL OF 1790 STATUTE, WITH ITS
UNLIMITED IMMUNITY PROVISIONS. IT DOES NOT APPLY TO
CRIMINAL PROCEEDINGS OR TO MISSIONS, AS DISTINGUISHED FROM
THEIR MEMBERS. SINCE VIENNA CONVENTION IMPOSES LIMITAT-
IONS ON IMMUNITY FROM CIVIL ACTIONS FOR EACH CLASS OF
MEMBERS OF THE MISSION, DEPARTMENT SEES NO CONFLICT BETWEEN
SECTION 7 AND THE CONVENTION OR INTERNATIONAL PRACTICE. CHRISTOPHER

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